



**FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD**

APPELLANT: Raymond R.S. Heyde
DOCKET NO.: 05-02450.001-R-3
PARCEL NO.: 07-07-36-400-001

The parties of record before the Property Tax Appeal Board are Raymond R.S. Heyde, the appellant, by attorney Gregory A. Hunziker, of Hunziker Law Group LLC of Peoria; the Tazewell County Board of Review by Assistant State's Attorney Eric Tibbs; and the Deer Creek-Mackinaw Community School District #71, intervenor,¹ by attorney Roy G. Davis of Davis & Campbell L.L.C. in Peoria.

Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds a reduction in the assessment of the property as established by the Tazewell County Board of Review is warranted. The correct assessed valuation of the property is:

FARMLAND:	\$ 990
HOMESITE:	\$ 2,562
RESIDENCE:	\$262,745
FARM BLDGS:	\$ 0
TOTAL:	\$266,297

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of 60.25-acres, of which 1.48-acres has been classified as homesite and the remainder of which has been classified as farmland. The homesite has been improved with a part one-story and part two-story single family dwelling of masonry exterior construction built in 2000 and consisting of

¹ By correspondence from intervenor's counsel dated May 24, 2007, the intervenor adopted the evidence submitted by the Tazewell County Board of Review. It is also noted that the intervenor, which is a party to this proceeding, did not appear at hearing.

4,021 square feet of living area.² The dwelling features a partially finished walkout basement of 2,393 square feet, central air conditioning, three fireplaces, and an attached four-car garage of 1,328 square feet of building area with additional amenities of dual water heaters, air conditioners and furnaces. The property is located in Danvers, Deer Creek Township, Tazewell County.

As a preliminary matter and to preface the stark descriptive differences of the dwelling made by the parties to this appeal, it should be noted that after the service of this appeal upon the board of review and due to a dispute about the description of the subject dwelling, the board of review utilized the procedures set forth in Section 1910.94 of the Official Rules of the Property Tax Appeal Board (86 Ill. Admin. Code Sec. 1910.94). In further pursuit of the remedies of the Rule, the board of review subsequently filed a motion to invoke the provisions of the rule.

In summary, as to the disputed characteristics of the dwelling, on the Residential Appeal petition filed with the Property Tax Appeal Board, the appellant reported a one and one-half story dwelling containing 4,157 square feet of living area and a three-car garage whereas the appellant's appraiser reported a two-story dwelling containing 4,187 square feet of living area, a 2,393 square foot basement, and a four-car garage. On the other hand, the property record card for the subject property maintained by the Tazewell County Supervisor of Assessments reported a two and one-half story dwelling containing 10,285 square feet of living area, a full basement of 3,956 square feet of building area, and a four car garage.

Section 1910.94(a) of the Rules provides:

No taxpayer or property owner shall present for consideration, nor shall the Property Tax Appeal Board accept for consideration, any testimony, objection, motion, appraisal critique or other evidentiary material that if offered to refute, discredit or disprove evidence offered by an opposing party regarding the description, physical characteristics or condition of the subject property when the taxpayer or property owner denied a request made in writing by the board of review or a taxing body, during the time when the Board was accepting documentary evidence, to

² The parties at hearing stipulated to 4,021 square feet as the living area square footage of the dwelling (Transcript p. 12-14 (hereinafter "TR" followed by page reference(s))). It is noted that based upon an inspection of the subject dwelling granted to the board of review's appraiser for purposes of a subsequent appeal of this property, the board of review's appraiser then determined the dwelling size to be 4,187 square feet of living area. The appellant's appraiser also reported the dwelling to have 4,187 square feet of living area (Klopfenstein Report p. 22).

physically inspect and examine the property for valuation purposes.

The Section 1910.94 motion filed prior to hearing was taken under advisement for issuance of a ruling within this decision due to the unique circumstances of this matter related to subsequent events where an inspection by the board of review was allowed.

The appellant appeared before the Property Tax Appeal Board through counsel contending the subject property was assessed in excess of its market value; the appellant made no challenge to either the farmland assessment or the homesite assessment in this proceeding. In support of the appellant's overvaluation complaint, an appraisal of the subject property with a valuation date of January 1, 2005 and an estimated market value of \$435,000 was filed with the Property Tax Appeal Board.

At hearing, appellant's first witness was Gary Pittenger, Chairman of the Tazewell County Board of Review, who upon questioning reiterated the 2005 valuation of the subject property after board of review equalization as \$436,276, consisting of \$2,562 for the homesite, \$990 for farmland, and \$432,724 for the improvement/dwelling (TR 19). Pittenger further confirmed that prior to the county board of review hearing, appellant submitted a copy of an appraisal prepared by Michael L. Klopfenstein with a market value opinion of \$420,000 as of January 1, 2005 [*sic*]³ and reporting a dwelling size of 4,187 square feet of living area (TR 15-16). Pittenger further noted that at the time of the local board of review hearing, inspection of the subject dwelling was requested by the board of review (TR 17-18). In determining the final assessment of the subject dwelling on a square foot basis, Pittenger testified the board of review examined the property record card created and maintained by the assessor (which is based on data presented by the township assessor) along with consideration of comparable sales (TR 20-22).

Next, Pittenger was questioned about the individual comparable sales submitted by the board of review in support of this appeal. As to comparable #1, Pittenger acknowledged that while the property was located away from the Morton city limits, it was not in a rural area (TR 23-25). When questioned, Pittenger testified that he had no further information regarding comparables #2 and #3 (TR 26). He agreed that the average per square foot of living area sales price for the three comparables was approximately \$129.00 per square foot (TR 26).⁴

³ A letter from the board of review filed in this matter specifically references an appraisal from Klopfenstein dated January 1, 2004; moreover, Klopfenstein's January 1, 2005 appraisal of the subject submitted in this matter estimates a market value of \$435,000.

⁴ The grid analysis presented by the board of review inappropriately combined the above-ground living area with finished basement area to ascertain the sale price per square foot of about \$129.000 per square foot on average. In

Pittenger next testified that the primary reason the opinion of value rendered by Klopfenstein was ignored in the board of review's assessment determination was due to the square foot dispute; additionally, the board had numerous questions concerning the comparables utilized by the appraiser since no adjustments were set forth in the report and the report lacked details and/or adjustments related to the subject dwelling's unique features of two water heaters and two air conditioning systems, for instance (TR 27-28). It was due to this substantial size discrepancy between the appraisal report and the county's records that lead to the request by the board of review to inspect the subject dwelling (TR 29).

Appellant called his next witness, appraiser Michael Klopfenstein, who testified that at the time of the performance of this appraisal he was a State Certified Residential Real Estate Appraiser; since the preparation of this appraisal he has also been certified as a General Real Estate Appraiser. As of the hearing date in 2009, Klopfenstein had eight years of appraisal experience.

Concerning the subject property, the appraiser prepared a limited summary appraisal with an opinion of market value of \$435,000 which the appraiser further allocated to the dwelling/garage and 2+-acres for the home at \$375,000 and "non-residential" land at \$60,000. In testimony, Klopfenstein described the subject as a unique property given its overall site size, condition, utility and other factors (TR 38). Due to these factors, Klopfenstein chose to estimate a value of the 2+-acre homesite and the dwelling separate from the remaining acreage (TR 38). The report states its function "is to assist the client, Dr. Raymond Heyde, in making informed decisions relative to the property." (Report p. 6)

Klopfenstein described the parcel of 60+-acres as having been improved with a one and one-half story frame constructed dwelling which the appraiser later described as having brick exterior walls (Report p. 8 & 9).⁵ The dwelling contains 4,187 square feet of living area (Report p. 22). Features described by Klopfenstein included a basement of 2,393 square feet with a recreation room, wine room, utility room and full bath. The appraiser also described the first floor as containing 2,588 square feet of living area and the second floor as containing 1,599 square feet of living area, including a study which is actually located between the first and second floors (Report p. 9). Additional amenities included skylights, three fireplaces, a built-in wet bar, intercom system, security system, air cleaner,

actuality, utilizing only above-ground living area square footage, the average sale price was \$175.68 per square foot of living area including land.

⁵ In contrast, on page 22 in the conclusion, the appraiser described the dwelling as a two-story design.

two hot water heaters, two furnaces and a four-car garage (Report p. 10; TR 62). There are also porches, patios, and a wood deck.

The appraiser described the dwelling as being in "generally above average condition." (Report p. 10) Klopfenstein opined the dwelling had an effective age of 5 years with a remaining economic life of 70 years (Report p. 10). Klopfenstein determined the highest and best use of the subject property, both as vacant and as improved, was for residential purposes (Report p. 11).

Klopfenstein reported that while he considered all three traditional approaches to value for this appraisal, pursuant to a prior agreement with the client, only the sales comparison approach was pursued (Report p. 12). The appraiser set forth four suggested sales comparables in a narrative format (Report p. 13-14). The comparables were noted as being located in Mackinaw, Goodfield, and Morton. The parcels ranged in size from approximately .81 to 4.5-acres and were improved with two, one and one-half story and two, two-story frame⁶ dwellings built between 1978 and 2003. The comparables ranged in size from 2,647 to 5,321 square feet of living area and featured full or partial basements, three of which included finished areas, central air conditioning, one to four fireplaces, and two or three-car garages. The comparables sold between March 2004 and January 2005 for purchase prices ranging from \$315,000 to \$380,000 or from \$59.20 to \$120.89 per square foot of living area including land. In the narrative description of the comparable sales, the appraiser noted comparable sales #1, #2 and #3 were overall considered to be inferior to the subject and only comparable sale #4 was considered to be superior to the subject.

For purposes of estimating the 58+-acres of non-residential land, Klopfenstein reported on five non-residential land sales from Tazewell County ranging in size from 27.717 to 97.24-acres. (Report p. 15-20) These properties sold between January 2000 and June 2001 for prices ranging from \$60,000 to \$138,000 or from \$1,389 to \$2,165 per acre of land.

On page 21 of the appraisal report, Klopfenstein wrote "Based upon an analysis of these sales and after giving consideration to differences where they occur, such as date of sale, location, land size and physical characteristics, and building size and physical characteristics, there is an indicated value, via the Sale Comparison Approach, of \$435,000.00."

In this appeal, appellant requested a total assessment for the subject property, not including the farmland, of \$128,552. This requested assessment reduction, based on the 2005 three-year

⁶ The appraisal uniformly described the comparables as "frame-constructed dwellings," but upon questioning by the Hearing Officer the appraiser indicated that was not necessarily a reference to the exterior construction, but rather to "the bones" of the structure (TR 47, 50 & 52).

median level of assessments in Tazewell County of 33.33% as determined by the Illinois Department of Revenue, reflects an estimated market value of \$385,695 for the homesite and dwelling only. Based on the appellant's appraisal evidence opining a market value of \$435,000 for the subject property, the appellant is therefore contending that the 58+-acres of farmland have a market value of approximately \$49,305 or \$850 per acre of farmland.

In closing argument, counsel summarized that Klopfenstein estimated the subject to have a value of about \$90 per square foot while the board of review estimated a value of \$129 per square foot of all finished areas and noted that Glassey, even at the larger square footage figure, appraised the subject at about \$135 per square foot. From this data, counsel contended the subject would fall at the lower end of the range of estimates particularly in light of the township assessor's 2005 improvement assessment of about \$150,000.

On cross-examination by the board of review, Klopfenstein acknowledged that the majority of the basement consisted of finished area with only between 195 and 200 square feet that was not finished as it was a utility area (TR 40).

Upon questioning by the Hearing Officer, Klopfenstein further described the basement as a walkout on the back side of the dwelling although he acknowledged it was not so noted within his appraisal report (TR 42). When asked, Klopfenstein was uncertain whether any of the comparable properties in the appraisal report featured walkout basements like the subject; that data would be on the listing sheets for each comparable which documentation was not included with the summary appraisal report (TR 42-43).

When questioned by the Hearing Officer about the adjustments made to his sales comparables in the appraisal, Klopfenstein testified that due to the type of property involved it was difficult, if not impossible, to actually make quantitative adjustments and therefore, Klopfenstein testified he made more qualitative upward and downward adjustments for differences like size, condition, and age, for example (TR 45-46). While Klopfenstein had specified comparables #1, #2 and #3 as overall inferior to the subject and comparable #4 as overall superior to the subject, the appraiser volunteered in testimony that he meant superior or inferior to the subject in location and utility (TR 53).

Based on further questions, he acknowledged that upward adjustments were necessary to comparable #4 for the dwelling size, the land area, the garage stalls and the fireplaces, Klopfenstein testified "the utility and amenities of this as far as location-wise, those to me outweigh the other upward adjustments to make it a net downward adjustment" from the sale price of about \$114 per square foot (TR 51-54). He further articulated the public utilities and close proximity to schools and shopping areas made the property superior to the subject, so that an overall downward adjustment to the sale price would be

necessary; he further qualified his consideration of comparable #4 as a sale which was given the least amount of consideration due to these differences in location and utility (TR 55). He further noted comparable #1 given its age of 1978 was probably given lesser consideration and thus most consideration was given to comparables #2 and #3 (TR. 55-56).

In explaining to the Hearing Officer the decision not to utilize the cost approach in the appraisal as it would have no bearing on the property's market value, Klopfenstein testified that the subject dwelling was an over-improvement for the area such that the cost was exponentially higher than what the market could bear making any depreciation for this functional obsolescence in terms of location and utility difficult to quantify in the cost approach analysis (TR 57-58).

On redirect examination, Klopfenstein clarified the functional obsolescence due to location and utility, was in part due to a majority of the land being in a floodplain, but was overall due to the over-improvement of the subject for the area (TR 65).

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of \$436,276 was disclosed. The improvement and homesite assessments combined reflect an estimated market value of \$1,305,989 or \$324.79 per square foot of living area including land using the 2005 three-year median level of assessments for Tazewell County of 33.33%. In support of the subject's assessment, the board of review submitted a four-page letter/motion with attachments wherein the provisions of Section 1910.94 of the Official Rules of the Property Tax Appeal Board were invoked, a grid analysis of three suggested comparable sales, and an appraisal.

Much of the letter/motion explains why the board of review, based on documentation available to it, presumed the subject dwelling contained 10,285 square feet of living area and was found to have been under-assessed with a total assessment of \$153,776 at the time the matter came before the board of review for consideration. At the local hearing, appellant through counsel was making a request for a reduction in the assessment to reflect a market value of \$420,000. The letter further describes the efforts starting at the time of the local board of review hearing held on December 15, 2005 (before the filing of an appeal with the Property Tax Appeal Board) through February 15, 2007 to obtain an interior inspection of the subject dwelling for purposes of verifying the description of the dwelling and for purposes of having an independent appraisal performed for the board of review to be filed with the Property Tax Appeal Board. Based on the foregoing, the board of review requested that the Property Tax Appeal Board not accept or consider any evidence submitted by the appellant in accordance with the provisions of Section 1910.94 of the Board's Rules. As noted, this request has been taken under advisement.

Next in the letter/motion, the board of review argues that, based upon its property record card reporting the dwelling to have 10,285 square feet of living area, the comparable sales reported by the board of review resulted in a determination by the board that the subject had a market value of \$127.00 per square foot of living area including land. The comparable sales considered were described in the letter and the grid analysis as located from 8 to 20 miles from the subject and in the communities of Morton, Peoria and Dunlap.

As set forth in the grid, the comparable properties ranged in size from 1 to 10.14-acres⁷ and were improved with two-story⁸ masonry or frame exterior constructed dwellings which were built between 1969 and 2003.⁹ Features include full basements, each of which includes finished area, central air conditioning, three or four fireplaces,¹⁰ decks, and three car garages ranging in size from 660 to 936 square feet of building area. The comparables have above-ground living areas ranging in size from 4,380 to 5,344 square feet; in each instance, the board of review erroneously combined the above-ground and finished basement areas in calculating its determination of the sale price per square foot for the comparables. The comparable properties sold between December 2003 and June 2004 for prices ranging from \$770,000 to \$985,000¹¹ or from \$144.09 to \$197.10 per square foot of above-ground living area including land.¹²

Next, the board presented an appraisal prepared by Brad Glassey of Glassey & Glassey Appraisal Service and called the appraiser to testify. Glassey testified he has been a licensed real estate appraiser for twelve years; as of the time of hearing, he held both Certified General and Certified Residential Real Estate Appraisal licenses in Illinois.

⁷ In the letter from the board of review, comparable #2 purportedly is less than 1-acre in size and comparable #3 is reported to have only 5-acres, rather than 10.14-acres as reported in the grid.

⁸ In the letter from the board of review, two comparables were described as one and one-half story dwellings.

⁹ In the letter, the board of review reports comparable #2 was constructed in 2003 instead of 1968 as set forth in the grid (see attached Multiple Listing Service Sheet confirming "year built: 2003") and comparable #1 was constructed in 1996, not 1995 as reported in the grid.

¹⁰ In the letter, the board of review reported comparables #2 and #3 each have five fireplaces as compared to the grid analysis reporting four and three fireplaces, respectively.

¹¹ In the letter, the board of review reported comparable #2 had a sale price of \$20,000 greater than what was reported on the grid analysis; said higher figure is deemed to be correct based on the sale price per "total finished area" reported by the board of review.

¹² Based on the board's erroneous inclusion of finished basement areas in the calculation, the board reported the sales prices ranged from \$128.34 to \$130.21 per square foot of total finished areas, which calculation includes the higher reported sale price for comparable #2 of \$863,285.

The appraisal report he prepared regarding the subject property specifically states that due to a lack of access, the appraisal did not include an interior inspection of the property and further noted the improvements were not visible from public roadways, therefore information was taken from county records and previous appraisals performed by other appraisers. However, since those appraisals were inconsistent with county records regarding square footage and other features, county records were used. (See also TR 69) Glassey testified that he has performed appraisals without the benefit of an inspection between 100 and 200 times in his career (TR 70). Given the county records, Glassey described the subject dwelling as being a two and one-half story design with 10,285 square feet of living area. Based on the data collected, Glassey opined a market value of \$1,350,000 for the subject property as of February 22, 2008. It should be noted that in the comments section of the report, Glassey wrote: "The analysis and conclusions contained in this report are null and void if any significant differences exist between the actual improvements and those depicted in this report." (Report, p. 3)

The subject property was described by Glassey as rural residential in an area of farmland and scattered residences with some driving time to employment centers, shopping and supporting services. At hearing, Glassey described the subject property as "pretty unique" and for comparables he sought to select rural properties similar in location with considerable acreage for a single-family dwelling with woods and perhaps a creek, but it was difficult to find comparables similar to the subject in what he understood to be the quality and appeal of the subject (TR 71-72).

Glassey set forth eight suggested sales comparables that were located in Secor, Tremont, Goodfield, Carlock, Washington, Metamora, Pekin, and Morton and were from 2.61 to 17.31 miles from the subject property. The parcels ranged in size from 2.01 to 48±-acres and were improved with two, one-story, three, one and one-half story and two, two-story dwellings of frame or frame and masonry construction ranging in age from 1 to 28 years old. The comparables ranged in size from 2,464 to 5,175 square feet of living area. Seven comparables feature full or partial basements, six of which included finished areas; one comparable had no basement. Each comparable had central air conditioning, and two to four-car garages; seven comparables have from one to five fireplaces. The comparables sold between May 2004 and February 2008 for purchase prices ranging from \$612,500 to \$985,000 or from \$108.24 to \$273.94 per square foot of living area including land.

The appraiser then made adjustments to the comparable sales for differences in location, acreage, view, quality of construction, condition, room count, living area square footage, basement, basement finish, functional utility, garage size, exterior construction, fireplaces, and differences in other amenities from the subject. After adjustments, the appraiser concluded adjusted

sale prices for the comparables ranging from \$1,240,100 to \$1,444,588. Based on the sales comparison approach to value, Glassey opined a market value for the subject of \$1,350,000.

The appraiser also performed a cost approach to value analysis. The appraiser reported five rural area sales ranging in size from 12.3 to 58.5-acres which sold for prices ranging from \$125,000 to \$480,000 or from \$8,205.13 to \$10,162.60 per acre; from this data, the appraiser estimated a land value for the subject's 60.25-acres at \$8,500 per acre or \$512,125. Based upon December 2007 Marshall & Swift and local contractor data, Glassey estimated the replacement cost for the dwelling of 10,285 square feet at \$122.50 per square foot, the basement at \$35.50 per square foot, and a 3,054 square foot garage at \$18.75 per square foot for a total replacement cost new of \$1,457,614. Depreciation deductions were made for physical depreciation, functional obsolescence due to the over-improvement (exceptionally large size) and external obsolescence due to driving time to supporting facilities for total depreciation of \$566,867 resulting in a depreciated cost of the improvements of \$890,747. Glassey then added \$25,000 for the "as-is" value of site improvements and added back the land value to arrive at a total estimate of market value under the cost approach of the property of \$1,427,872.

In his reconciliation, Glassey reported that most weight was given to the sales comparison approach and then concluded an estimated fair market value of the subject of \$1,350,000 as of February 22, 2008.

In light of the foregoing evidence regarding the change in size determination of the subject dwelling, in closing argument the board of review's counsel requested a determination of fair market value for the subject ranging between \$750,000 and \$900,000.

On cross-examination, Glassey was asked why he chose to rely on the property record card's report of the dwelling size as opposed to the size reported in other appraisals which he reviewed. To this Glassey testified that in examining the other appraisals, he was confused by the data in that the schematic did not look like the dwelling and two appraisals from one appraiser had differing sizes (TR 77 & 80). Glassey then acknowledged that he valued the property with a finished basement, despite the property record card report of an unfinished basement (TR 78). The property record card was particularly helpful to Glassey in determining the land area since he was unable to gain access to the property for purposes of preparing this appraisal (TR 82-83).

Glassey was also asked whether, pursuant to a subsequent appraisal of the property which reported the subject as having 4,021 square feet of living area, he would describe the subject as an over-improvement. While there are certain aspects of the dwelling which he would characterize as an over-improvement, Glassey testified that he would not characterize the entire

dwelling as an over-improvement at 4,021 square feet of living area (TR 83-84).

Upon questioning by the Hearing Officer, Glassey acknowledged that he has since had access to the property and confirmed that he found the dwelling to contain 4,021 square feet of living area (TR 87). After his inspection, Glassey would describe the subject dwelling as a two-story although the second story is partial and the property features a walkout basement of 2,129 square feet of which approximately 2,000 square feet has been finished (TR 87).

Glassey further acknowledged that his value opinion has changed since viewing the property (TR 87-88). However, he noted that between 2005 and 2008, the real estate market trend in the area was for rural land to be on the increase and construction costs were increasing; he acknowledged that a valuation date of January 1, 2005 would make a significant difference in his opinion of value (TR 88-89). In fact, Glassey testified that after gaining access to the property, he estimated a land value of \$5,200 per acre (TR 93-95). In this regard, Glassey disagreed with the land value conclusion made by Klopfenstein of approximately \$1,000 per acre for the non-residential land based on a determination of poorly tillable soil whereas Glassey viewed the land as purely for recreational use (TR 95-96).

On redirect examination, Glassey stated that while he may have valued the improvement slightly higher than Klopfenstein, there was insufficient detail in Klopfenstein's appraisal to analyze how he arrived at his value conclusion for the improvement and determine differences in the appraisers' opinions of value (TR 97-98).

In written rebuttal filed in this matter, the appellant through counsel submitted a brief with numerous attachments, among which were additional appraisals of the subject property not previously submitted in support of this appeal. As to the evidence presented by the board of review, in the brief appellant harshly criticizes the review board's reliance upon the property record card and appraisal by Glassey. Among the attachments were two review appraisals (Exhibits F & G). Appellant concludes that no weight should be accorded to the board of review's appraisal in light of the descriptive differences and date of valuation given in that report.

In his review appraisal, Michael L. Klopfenstein examines Glassey's appraisal submitted by the board of review in this matter (Exhibit F). The review appraisal makes eight specific points with regard to the appraisal: the date of valuation; the intended use of the report as set forth in a pre-printed area of the report; the lack of flood zone data; the lack of land sales analysis; the lack of a physical inspection of the subject with the use in some instances of county records and other records for other features; the wide range of net adjustments to the sales comparables and the lack of consideration of certain specific

adjustments to the sales comparables; and, based on additional research, specific notations about the various sales comparables considered by Glassey. Klopfenstein was not called for purposes of rebuttal testimony to discuss his findings in this review appraisal.

In rebuttal, appellant also presented a desk review prepared by Stephen D. Whitsitt of Glassey's appraisal in comparison with Klopfenstein's appraisal (Exhibit G). In summary, differences were noted by Whitsitt in flood plain notations between the appraisers; land sales data presented by Glassey lacked date of sale and description of type of property sold; Glassey's cost manual data for the subject was not properly calculated and an estimated life of 90 years for the subject was deemed excessive; and he found a lack of detail in the adjustments made by Glassey in the sales comparison approach to value.

After hearing the testimony and reviewing the record, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal.

As to the Section 1910.94 motion made by the board of review in this proceeding, given the unique circumstances of this matter where access was subsequently granted by the appellant to the subject property, the Property Tax Appeal Board denies the motion to invoke Section 1910.94 and thereby bar all of the evidence and/or testimony regarding the dwelling submitted by the appellant in this proceeding. As established at hearing, the board of review's fee appraiser was subsequently able to gain access to the subject property; unfortunately that only occurred after the filing of the board of review's evidence in this matter. The Board finds it very unfortunate that the board of review was so severely hampered in its presentation of evidence by the appellant's refusal to grant access given the clear and apparent discrepancies in the description of the property. However, the board of review at hearing stipulated to the dwelling size of the subject property different from that previously relied upon; since the board was now aware of the true facts of the dwelling size and such stipulation suffices for purposes of determining the characteristics of the subject property, the motion is denied.

It should be noted, however, that this ruling on the Section 1910.94 motion should not be viewed by appellant as support or encouragement to engage in unreasonable denial of entry/access to the property when there is a legitimate dispute about the property's characteristics. Moreover, the Board finds it highly troubling that after denying the access to the property, the appellant chose to further severely criticize the board of review in its rebuttal brief for the board's obligatory reliance upon the only size evidence in its own possession, namely, the property record. The Property Tax Appeal Board finds that the board of review was not bound to blindly accept the dwelling size presented by the Klopfenstein appraisal without the ability to independently verify the measurement. Even in his desk review,

appellant's review appraiser Whitsitt characterized this lack of personal inspection of the property as "handcuffing" Glassey (Exhibit G, p. 2). The appellant should be fully aware that pursuant to the Board's Rules, it is the policy of the Property Tax Appeal Board to obtain full disclosure of all relevant and material facts prior to hearing (86 Ill. Admin. Code Sec. 1910.79(a)). The description and physical characteristics of the property clearly fall within the realm of relevant and material facts.

Moreover, as to appellant's rebuttal evidence, several of the documents submitted are not admissible for consideration in this matter in accordance with the Board's Rules. Namely, pursuant to the Official Rules of the Property Tax Appeal Board, rebuttal evidence is restricted to that evidence to explain, repel, counteract or disprove facts given in evidence by an adverse party. (86 Ill. Admin. Code, Sec. 1910.66(a)). Moreover, rebuttal evidence shall not consist of new evidence such as an appraisal or newly discovered comparable properties. (86 Ill. Admin. Code, Sec. 1910.66(c)). In light of the Board's Rules, the Property Tax Appeal Board has not considered appellant's Exhibits A, C, and D which were appraisals performed both before and after the valuation date at issue in this matter, but which had not been submitted with the appeal in accordance with Section 1910.30 (86 Ill. Admin. Code Sec. 1910.30). Exhibits B and E were merely redundant of appellant's evidence in this matter.

As to the merits, the appellant argued that the subject's assessment was not reflective of market value. When market value is the basis of the appeal, the value of the property must be proved by a preponderance of the evidence. Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill. App. 3d 179, 728 N.E.2d 1256 (2nd Dist. 2000); National City Bank of Michigan/Illinois v. Illinois Property Tax Appeal Board, 331 Ill. App. 3d 1038 (3rd Dist. 2002). The Board finds this burden of proof has been met and a reduction in the subject's assessment is warranted.

The appellant submitted an appraisal estimating the subject property had a market value of \$435,000 or \$108.18 per square foot of living area of 4,021 square feet as of January 1, 2005. The Tazewell County Board of Review submitted an appraisal estimating the subject property had a market value of \$1,350,000 or \$131.26 based on a dwelling size of 10,285 square feet as of February 22, 2008 and also submitted a grid analysis of three comparable sales. The subject improvement and homesite has an assessment totaling \$435,286 or reflecting a market value of \$1,305,989 using the 2005 three-year median level of assessments for Tazewell County of 33.33%.

The most significant difference between the appraisals was with respect to the dwelling size associated with the subject which was resolved at hearing through a stipulation of the parties, but which difference was still evident in the appraisal evidence, particularly that submitted by the board of review. At this

time, it is undisputed that Glassey overstated the size of the subject dwelling due to his reliance upon the property record card which apparently was erroneous. In light of the parties' stipulation at hearing, all further discussion of the subject dwelling's size will refer only to 4,021 square feet unless otherwise necessitated.

Both appraisers developed the sales comparison approach to value. After reviewing the appraisals and considering the testimony provided by both appraisers, the Board finds that neither appraiser adequately supported their respective conclusions of value under the sales comparison approach and therefore, the Board finds neither appraisal can be relied upon for its final opinion of value. While the dates of sales utilized by Klopfenstein were appropriate for a valuation date of January 1, 2005, the Board finds the appraisal and testimony provided by Klopfenstein lacked support and credibility with regard to the adjustments made to those sales comparables and therefore the conclusion drawn. Moreover, some of the sales considered lack much similarity to the subject property. On the other hand, with a valuation date of February 22, 2008, a number of the comparable sales presented in Glassey's appraisal report were far too distant from the valuation date of January 1, 2005 for valid analytical purposes (in addition to the dwelling size issue of his report discussed extensively above). The combination of differing physical characteristics, dates of sale for comparables chosen, and date of valuation combine so as to create a lack of credibility in Glassey's final opinion of value for the assessment date of January 1, 2005 on appeal in this matter.

Upon examination of the respective appraisal reports and the board's sales grid, the Board finds the parties submitted a total of fifteen suggested comparable improved sales. The Board finds Klopfenstein's comparables #3 and #4, Glassey's comparables #5 and #8, and board of review sales #1 and #2 were most similar to the subject in size, design, exterior construction, location and/or age and had dates of sale more appropriate to the valuation date of January 1, 2005. The Board recognizes that the comparables used by both parties had different attributes when compared to the subject. However, due to their similarities to the subject, these six sales comparables received the most weight in the Board's analysis.

These comparables sold between December 2003 and December 2006 for prices ranging from \$350,000 to \$985,000 or from \$106.22 to \$198.47 per square foot of living area including land. The subject's current dwelling and homesite assessment reflecting an estimated market value of \$1,305,989 or, at 4,021 square feet of living area, \$324.79 per square foot of living area, which is clearly excessive in light of the most similar comparable sales on this record. Considering adjustments to the sales comparables for the subject's numerous superior features including all brick exterior construction, numerous upgraded amenities, full finished walkout basement, multiple fireplaces, dual water heaters and

heating systems, and newer age, the Board finds that the subject's market value would be at the high end of the range of the most similar comparables.

In conclusion the Property Tax Appeal Board finds the subject dwelling and homesite had a market value of \$796,000 as of January 1, 2005. Since market value has been determined the 2005 three year median level of assessments for Tazewell County of 33.33% shall apply.

This is a final administrative decision of the Property Tax Appeal Board which is subject to review in the Circuit Court or Appellate Court under the provisions of the Administrative Review Law (735 ILCS 5/3-101 et seq.) and section 16-195 of the Property Tax Code.

Ronald R. Cuit

Chairman

K. L. Fern

Member

Frank A. Huff

Member

Mario Morris

Member

Shawn R. Lerbis

Member

DISSENTING:

C E R T I F I C A T I O N

As Clerk of the Illinois Property Tax Appeal Board and the keeper of the Records thereof, I do hereby certify that the foregoing is a true, full and complete Final Administrative Decision of the Illinois Property Tax Appeal Board issued this date in the above entitled appeal, now of record in this said office.

Date: November 25, 2009

Allen Castrovillari

Clerk of the Property Tax Appeal Board

IMPORTANT NOTICE

Section 16-185 of the Property Tax Code provides in part:

"If the Property Tax Appeal Board renders a decision lowering the assessment of a particular parcel after the deadline for filing

complaints with the Board of Review or after adjournment of the session of the Board of Review at which assessments for the subsequent year are being considered, the taxpayer may, within 30 days after the date of written notice of the Property Tax Appeal Board's decision, appeal the assessment for the subsequent year directly to the Property Tax Appeal Board."

In order to comply with the above provision, YOU MUST FILE A PETITION AND EVIDENCE WITH THE PROPERTY TAX APPEAL BOARD WITHIN 30 DAYS OF THE DATE OF THE ENCLOSED DECISION IN ORDER TO APPEAL THE ASSESSMENT OF THE PROPERTY FOR THE SUBSEQUENT YEAR.

Based upon the issuance of a lowered assessment by the Property Tax Appeal Board, the refund of paid property taxes is the responsibility of your County Treasurer. Please contact that office with any questions you may have regarding the refund of paid property taxes.